

Pat. # 7,345,433

Jeffrey W. Johnson (#024435)
Sean Kealii Enos (#023634)
SCHMEISER, OLSEN & WATTS, LLP
18 E. University Drive, Suite 101
Mesa, Arizona 85201
Telephone: (480) 655-0073
Facsimile: (480) 655-9536
kenos@IPlawUSA.com
jjohnson@IPlawUSA.com

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

CTLUMINATION, LLC,
an Arizona limited liability company,

Plaintiffs,

vs.

SUPERBRIGHT LEDS, Inc., a
Missouri Corporation

Defendant.

Case No.

**COMPLAINT SEEKING
INJUNCTIVE AND MONETARY
RELIEF FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

Plaintiff CTLUMINATION, LLC, (hereinafter "CTLUMINATION"), by and through undersigned counsel, files this Original Complaint for patent infringement against Defendant SUPERBRIGHT LEDS, Inc. (hereinafter "SUPERBRIGHT") for infringement of United States Patent Number 7,345,433 pursuant to 35 U.S.C. § 271.

NATURE OF THE ACTION

1
2 1. This is an action brought by Plaintiff CTLUMINATION against
3 Defendant SUPERBRIGHT for preliminary and permanent injunctive relief and
4 monetary damages to remedy inducement to infringe and direct infringement by
5 Defendant SUPERBRIGHT of United States Patent Number 7,345,433 (hereinafter the
6 “‘433 Patent”). A true and correct copy of the ‘433 Patent is attached hereto as Exhibit
7 1.

8
9 2. Plaintiff CTLUMINATION is the assignee of all rights, title and interest
10 in the 433 Patent, which covers certain light emitting diode (LED) lamp modules.

11 3. Defendant SUPERBRIGHT makes, uses, sells, offers for sale imports into
12 the United States and/or exports at least one product that infringes the ‘433 Patent.

13 4. Accordingly, Plaintiff CTLUMINATION seeks monetary and injunctive
14 relief pursuant to its claims arising out of Defendant SUPERBRIGHT’s willful and
15 wrongful taking of, making, using, importing, selling and/or offering to sell in the
16 Unites States Plaintiff CTLUMINATION’s invention as claimed in the ‘433 Patent.

17 **PARTIES**

18
19 5. Plaintiff CTLUMINATION is an Arizona Limited Liability Company
20 with its principal place of business located at 3411 E. Vallejo Ct., Gilbert, Arizona,
21 85297.

22 6. Plaintiff CTLUMINATION designs, markets, and sells lighting-related
23 products throughout the Unites States.

24 7. Plaintiff CTLUMINATION is the assignee of, and exclusive owner of, the
25 patent rights on which the claims of relief asserted herein are based.

1 8. Upon information and belief, Defendant SUPERBRIGHT is a corporation
2 organized and existing under the laws of Missouri with its principal place of business at
3 4400 Earth City Expressway, Earth City, MO 63045.

4 9. Defendant SUPERBRIGHT markets, uses, imports, sells and/or offers for
5 sale LED lighting and LED lighting-related products (including without limitation Car
6 Bulbs, Bars/Strips, Household Bulbs, Boat/RV bulbs, Landscape bulbs, Accent
7 Lighting bulbs, Truck/Trailer bulbs, Component LEDs, Standard Bulb Replacements,
8 General Purpose bulbs, Flashlights and Bulbs, and Miscellaneous and Do-It-Yourself
9 bulbs).

10 10. Defendant SUPERBRIGHT is doing business in the United States and,
11 more particularly, in the District of Arizona, by marketing, making, using, selling,
12 importing, and/or offering for sale LED lighting and LED lighting-related products that
13 infringe the patent claims involved in this action or by transacting other business in this
14 District.

15 11. Defendant SUPERBRIGHT is a direct competitor of Plaintiff
16 CTLULMINATION.

17
18 **JURISDICTION AND VENUE**

19 12. This is a civil action for patent infringement arising under the patent laws
20 of the United States, Title 35, United States Code, including 35 U.S.C. §§ 271 and 281-
21 285. Subject matter jurisdiction is conferred on this Court by 28 U.S.C. §§ 1331 and
22 1338(a).

23 13. Defendant SUPERBRIGHT regularly solicits business and maintains a
24 persistent course of conduct by conducting business in the District of Arizona via its
25 website www.superbrightleds.com.

1 14. Upon information and belief, Defendant SUPERBRIGHT also maintains
2 an established distribution network for offering for sale, selling and shipping products
3 into this District, including its products offered at www.superbrightleds.com.

4 15. Upon information and belief, the marketing and sale of the accused
5 devices sold by Defendant SUPERBRIGHT directly infringes and induces or
6 contributes to the infringement of the '433 Patent.

7 16. Defendant SUPERBRIGHT's actions as described herein have caused and
8 will continue to cause tortious injury to Plaintiff CTLUMINATION, a resident of this
9 State, and, if not enjoined, will permit Defendant SUPERBRIGHT to wrongfully derive
10 substantial revenue from its activities within the State of Arizona and the District of
11 Arizona.

12 17. Upon information and belief, Defendant SUPERBRIGHT derives
13 substantial revenue from activities within the State of Arizona and the District of
14 Arizona, and has sold a substantial number of products within or for delivery or
15 distribution into this State and District.

16 18. This Court has personal jurisdiction over Defendant SUPERBRIGHT
17 pursuant to the provisions of the Arizona's long arm statute, Rule 4.2, *Ariz. R. Civ. P.*,
18 and the laws of the United States. Defendant SUPERBRIGHT has established
19 minimum contacts with the State of Arizona. Defendant SUPERBRIGHT directly
20 and/or through intermediaries (including distributors, retailers, and others), ships,
21 distributes, offers for sale, sells, and advertises its products or services that fall within
22 one or more claims of Plaintiff CTLUMINATION's patents in the District of Arizona.
23 Additionally, Defendant SUPERBRIGHT, directly and/or through its distribution
24 networks, regularly places its products within the stream of commerce, with the
25

1 knowledge and/or understanding that such products will be sold in the District of
2 Arizona. Defendant SUPERBRIGHT has purposefully and voluntarily sold one or
3 more of its infringing products with the expectation that they will be purchased by
4 consumers in the District of Arizona. Defendant SUPERBRIGHT's products, including
5 infringing products, have been and continue to be purchased by consumers in the
6 District of Arizona. Defendant has committed acts of patent infringement within the
7 State of Arizona and in the District of Arizona. Defendant SUPERBRIGHT has
8 purposefully availed itself of the benefits of the State of Arizona, and the exercise of
9 jurisdiction over Defendant SUPERBRIGHT would not offend traditional notions of
10 fair play and substantial justice.

11 19. The events giving rise to the claims herein, or a substantial portion
12 thereof, occurred in this District. Furthermore, Defendant SUPERBRIGHT, a
13 corporation, is subject to personal jurisdiction in this judicial district as detailed above.
14 Therefore, venue is proper under 28 U.S.C. §§ 1391(b)-(d) and 1400(b).

15 **U.S. Patent No. 7,345,433**

16
17 20. Plaintiff CTLUMINATION incorporates by reference the preceding
18 paragraphs as if fully set forth herein.

19 21. On March 18, 2008, after full and fair examination, the United States
20 Patent and Trademark Office ("USPTO") duly and legally issued Letters Patent No.
21 7,345,433 (the "'433 Patent") entitled "REVERSIBLE POLARITY LED LAMP
22 MODULE USING CURRENT REGULATOR AND METHOD THEREFOR" with
23 Christopher C. Bacon and Tracy A. Bacon as the named inventors. A true and correct
24 copy of the '433 Patent is attached hereto as Exhibit 1.

1 22. On March 2, 2011, Christopher C. Bacon and Tracy A. Bacon executed an
2 assignment of the '433 patent to CTLUMINATION, making CTLUMINATION the
3 owner of all the rights, title and interest in the '433 Patent, and giving
4 CTLUMINATION all rights of recovery under the '433 Patent, including the right to
5 recover damages for past infringement. This assignment is recorded at Reel/Frame
6 Number 025888/0755 in the U.S. Patent and Trademark Office. A true and correct
7 copy of the assignment is attached hereto as Exhibit 2.

8 23. The '433 patent is valid and enforceable.

9
10 **INFRINGER and Its Accused Devices**

11 24. Multiple devices offered for sale by Defendant SUPERBRIGHT infringe
12 the '433 Patent (hereinafter collectively referred to as the "ACCUSED INFRINGING
13 DEVICES").

14 25. Specific examples of ACCUSED INFRINGING DEVICES include at
15 least the following products offered for sale by Defendant SUPERBRIGHT on its
16 website www.superbrightleds.com: WLED-WHP 18-SP (shown in attached Exhibit 3);
17 WLED-xLX (shown in attached Exhibit 4); 4210-xHP3 & 4210-xHP6 (shown in
18 attached Exhibit 5); 6 & 5 Watt MR16 LED bulbs (shown in attached Exhibit 6), G4-
19 WW1W-DAC (shown in attached Exhibit 7); and E27-xW96SMD-AIM Rotatable LED
20 Bulb (shown in attached Exhibit 8).

21 26. On March 17, 2011, Plaintiff CTLUMINATION sent a letter to Defendant
22 SUPERBRIGHT along with a copy of the '433 patent, requesting that Defendant
23 SUPERBRIGHT contact Plaintiff CTLUMINATION to discuss possible negotiation of
24 a license for the '433 Patent, or in the alternative, that Defendant SUPERBRIGHT
25 cease and desist infringing the '433 Patent.

1 27. Defendant SUPERBRIGHT has neither entered into a license agreement
2 with Plaintiff CTLUMINATION, nor ceased its infringement of the '433 Patent.
3

4 **FIRST CLAIM FOR RELIEF**
5 **(Infringement of U.S. Patent No. 7,345,433)**

6 **[35U.S.C. § 271(a)]**

7 28. Plaintiff CTLUMINATION incorporates by reference all averments set
8 forth in the paragraphs above as if fully rewritten herein.

9 29. Defendant SUPERBRIGHT has been and is now directly infringing the
10 '433 Patent by making, using, selling, offering for sale, importing into the United States
11 and/or exporting its products that practice or embody one or more claims of the '433
12 Patent. Defendant SUPERBRIGHTS's products practice at least one of the claims of
13 the '433 Patent.

14 30. Defendant SUPERBRIGHT is making, using, importing, selling, or
15 offering to sell in the United States ACCUSED INFRINGING DEVICES, including
16 specific ACCUSED INFRINGING DEVICES identified in paragraph 25, which
17 ACCUSED INFRINGING DEVICES infringe one or more claims of the '433 Patent.

18 31. Upon information and belief, Defendant SUPERBRIGHT has been
19 making, using, importing, selling, or offering to sell in the United States ACCUSED
20 INFRINGING DEVICES, including specific ACCUSED INFRINGING DEVICES
21 identified in paragraph 25, which ACCUSED INFRINGING DEVICES infringe one or
22 more claims of the '433 Patent, since at least 2009..

23 32. On information and belief, Defendant SUPERBRIGHT knows that the
24 ACCUSED INFRINGING DEVICES infringe one or more claims of the '433 Patent.
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1 33. On information and belief, Defendant SUPERBRIGHT's acts of direct
2 infringement are willful, wanton, and deliberate, without license, and with full
3 knowledge and awareness of the '433 Patent.

4 34. As a result of Defendant SUPERBRIGHT's acts of infringement, Plaintiff
5 CTLUMINATION will suffer irreparable harm, and will continue to suffer irreparable
6 harm until and unless Defendant SUPERBRIGHT's infringing activities are enjoined
7 for the duration of this action and thereafter.

8 35. Harm to Plaintiff CTLUMINATION within this judicial district and
9 elsewhere in the United States resulting from the acts of direct infringement of the '433
10 Patent by Defendant SUPERBRIGHT as set forth above is irreparable, continuing, and
11 not fully compensable by money damages alone.

12 36. On information and belief, Defendant SUPERBRIGHT has profited and
13 will continue to profit by its wrongful activities.

14 37. Plaintiff CTLUMINATION has been be damaged by Defendant
15 SUPERBRIGHT's infringing activities and will continued to be damaged by these
16 activities if Defendant SUPERBRIGHT is not enjoined.

17 38. The amount of monetary damages which Plaintiff CTLLUMINATION
18 has suffered by the acts of Defendant SUPERBRIGHT as set forth above cannot be
19 determined without an accounting.
20

21 **SECOND CLAIM FOR RELIEF**
22 **(Inducing Infringement of U.S. Patent No. 7,345,433)**

23 **[35 U.S.C. § 271(b)]**

24 39. Plaintiff CTLUMINATION incorporates by reference all averments set
25 forth in the paragraphs above as if fully rewritten herein.

1 40. Defendant SUPERBRIGHT indirectly infringes the '433 Patent by
2 inducement of infringement in accordance with 35 U.S.C. § 271(b). Defendant
3 SUPERBRIGHT provides products to companies and/or end-user customers in the
4 United States who, in turn, install and use Defendant SUPERBRIGHT's products.
5 Accordingly, Defendant SUPERBRIGHT indirectly infringes because Defendant
6 SUPERBRIGHT has been and is now actively inducing others, such as end-users of
7 Defendant SUPERBRIGHT's products, to directly infringe one or more claims of the
8 '433 Patent.

9 41. In manufacturing, importing, marketing selling and/or offering for sale the
10 ACCUSED INFRINGING DEVICES within the United States, including within the
11 State of Arizona, Defendant SUPERBRIGHT is inducing customers and consumers
12 who purchase or otherwise procure or use the ACCUSED INFRINGING DEVICES to
13 infringe the '433 Patent.

14 42. On information and belief, Defendant SUPERBRIGHT reasonably knows
15 that the manufacturing, importing, marketing, selling and/or offering for sale of the
16 ACCUSED INFRINGING DEVICES will induce customers and consumers into
17 infringing the '433 Patent.

18 43. On information and belief, Defendant SUPERBRIGHT's acts of inducing
19 infringement of the '433 Patent, as outlined above, are willful, wanton, and deliberate,
20 without license, and with full knowledge and awareness of the '433 Patent. As a result,
21 Plaintiff CTLUMINATION is suffering irreparable harm and this irreparable harm will
22 continue until and unless Defendant SUPERBRIGHT's infringing activities are
23 enjoined for the duration of this action and thereafter.
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46. Plaintiff CTLUMINATION has been and will be damaged by Defendant SUPERBRIGHT's infringing activities. The amount of monetary damages that Plaintiff CTLUMINATION has suffered by the acts of Defendant CTLUMINATION, as set forth above, cannot be determined without an accounting.

13 47. Plaintiff CTLUMINATION incorporates by reference all averments set
14 forth in the paragraphs above as if fully rewritten herein.

22 49. Defendant SUPERBRIGHT's acts of infringement have caused damage to
23 Plaintiff CTLUMINATION. Plaintiff CTLUMINATION is entitled to recover from
24 Defendant SUPERBRIGHT the damages sustained by Plaintiff CTLUMINATION as a
25 result of Defendant SUPERBRIGHT's wrongful acts in an amount subject to proof at
trial. In addition, Plaintiff CTLUMINATION has been irreparably harmed by

1 Defendant SUPERBRIGHT's acts of infringement of the '433 Patent, and will continue
2 to be harmed unless and until Defendant SUPERBRIGHT's acts of infringement are
3 enjoined by this Court. Defendant SUPERBRIGHT's infringement of Plaintiff
4 CTLUMINATION's rights under the '433 Patent will continue to damage Plaintiff
5 SUPERBRIGHT's business, causing irreparable injury and damage, for which there is
6 no adequate remedy of law, unless restrained and enjoined by this Court. The hardships
7 that would be imposed upon Defendant SUPERBRIGHT by an injunction are less than
8 those faced by Plaintiff CTLUMINATION should an injunction not issue.
9 Furthermore, the public interest would be served by issuance of an injunction.

10 50. Defendant SUPERBRIGHT has received actual notice of infringement.

11 51. Defendant SUPERBRIGHT's infringement of the '433 Patent is willful
12 and deliberate, entitling Plaintiff CTLUMINATION to enhanced damages and to
13 attorneys' fees incurred in prosecuting this action.
14

15 **DEMAND FOR JURY TRIAL**

16 52. Pursuant to Fed. R. Civ. P. 38(b), Plaintiff CTLUMINATION hereby
17 demands a trial by jury for all issues triable of right by a jury.
18

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff CTLUMINATION demands judgment against
21 Defendant SUPERBRIGHT as follows:

22 1. A judgment that Defendant SUPERBRIGHT has directly and/or indirectly
23 infringed by way of inducement, the '433 patent;

24 2. A judgment and order that Defendant SUPERBRIGHT, and any of its
25 parents, affiliates, subsidiaries, officers, agents, servants, employees, attorneys,

1 successors and assigns, and those persons acting in concert, participation, privity, on
2 behalf of, in joint venture, or in partnership with Defendant SUPERBRIGHT, be
3 enjoined preliminarily, and then permanently, from making, importing, using, offering
4 for sale, selling, or causing to be sold any product or service falling within the scope of
5 any claim of the '433 Patent, or otherwise infringing, inducing to infringe, or
6 contributing to the infringement of the '433 Patent;

7 3. That the Court order an accounting for damages, including Defendant
8 SUPERBRIGHT's profits resulting from Defendant SUPERBRIGHT's acts of
9 infringement, through verdict and thereafter until Defendant SUPERBRIGHT is
10 enjoined from further infringing activities;

11 4. A judgment and order that Plaintiff CTLUMINATION be awarded
12 damages adequate to compensate for the infringement under 35 U.S.C. § 284, including
13 Defendant SUPERBRIGHT's profits resulting from Defendant SUPERBRIGHT's acts
14 of infringement, and including supplemental damages for any continuing post-verdict
15 infringement until Defendant SUPERBRIGHT is enjoined from further infringing
16 activities;

17 5. A judgment and order requiring Defendant SUPERBRIGHT to pay
18 Plaintiff CTLUMINATION pre-judgment and post-judgment interest on the damages
19 awarded, including an award of prejudgment interest, pursuant to 35 U.S.C. § 284, from
20 the date of each act of infringement of the '433 Patent by Defendant SUPERBRIGHT to
21 the day a damages judgment is entered, and further award of post-judgment interest,
22 pursuant to 28 U.S.C. § 1961, continuing until such judgment is paid, at the maximum
23 rate allowed by law;
24
25

1 6. A judgment and order finding that Defendant SUPERBRIGHT's
2 infringement is willful and deliberate, entitling Plaintiff SUPERBRIGHT to enhanced
3 damages pursuant to 35 U.S.C. § 284;

4 7. A judgment and order finding this to be an exceptional case and requiring
5 Defendant SUPERBRIGHT to pay the costs of this action (including all disbursements)
6 and attorneys' fees as provided by 35 U.S.C. § 285;

7 8. In the event an injunction is not awarded, a compulsory ongoing royalty;
8 and
9

10 9. That Plaintiff CTLUMINATION be awarded such other and further relief
11 as the Court deems just and equitable.

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13
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15
16 DATED this 20th day of April, 2011.

17
18 SCHMEISER, OLSEN & WATTS LLP

19 By:

20
21 /Jeffrey W. Johnson/

22 Jeffrey W. Johnson
23 Sean K. Enos
24 SCHMEISER, OLSEN & WATTS, LLP
25 18 E. University Drive, Suite 101
 Mesa, Arizona 85201
 Attorneys for Plaintiff

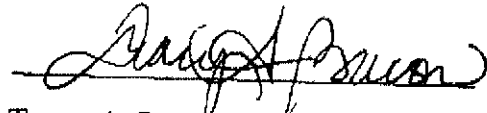
VERIFICATION OF THE COMPLAINT

We are the owners of CtLumination, LLC. We have personal knowledge of the matters set forth in the Complaint, and we verify that we have read the foregoing Complaint and the allegations and statements therein. We further verify that the allegations and statements are true to the best of our knowledge, except as to those matters stated upon information and belief and, as to those, we believe them to be true.

DATED this 20 day of April, 2011.



Christopher C. Bacon



Tracy A. Bacon